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October 26, 1994

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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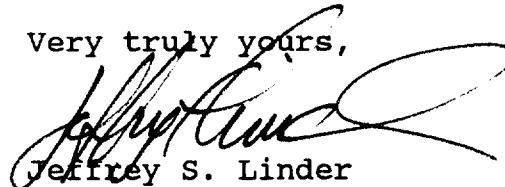
OCT 26 1994

Re: Ex Parte Contact in Docket No. 94-54

Dear Mr. Caton:

The enclosed summary of the reply comments in this docket was provided today to several members of the Commission's staff.

Very truly yours,



Jeffrey S. Linder

JSL:rw

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U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

**SUMMARY OF REPLY COMMENTS  
IN CC DOCKET NO. 94-54**

**R. Michael Senkowski  
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**October 25, 1994**

## FORWARD

On July 1, 1994, the FCC released its Notice of Proposed Rulemaking and Notice of Inquiry on Equal Access and Interconnection.<sup>1</sup> Comments were filed on September 12, 1994. Reply comments were due on October 13 and are briefly summarized herein.

We have done our best to represent each commenter's positions accurately on a range of issues within one page and in a consistent format. Due to space and time constraints, however, many supporting arguments have been truncated and rephrased to conserve space. Accordingly, in all cases, it is highly advisable to review the actual commenter's text.

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<sup>1</sup> Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, FCC 94-145 (rel. July 1, 1994).

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## **AIRTOUCH COMMUNICATIONS**

**Interest:** Current provider of cellular and paging services and future provider of broadband PCS services.

### **Equal access:**

#### **Cellular equal access:**

- No additional obligations should be imposed on CMRS providers. The high costs of implementing presubscribed 1+ equal access will result in higher prices, reduced competition, and minimal benefit to consumers. (1)
- Supports continued unblocked access to any carrier. (2)
- CMRS providers should not be subject to the same regulatory restrictions as the BOCs because, unlike the BOCs, they do not control bottleneck facilities. (2)

#### **CMRS/CMRS interconnection:**

- Congress did not intend to mandate physical interconnection for resellers. (3-4)
- Commission precedent does not support mandatory interconnection of reseller switches. In addition, such a rule would first require the Commission to issue a Notice of Proposed Rulemaking. (5-6)
- Interconnection of reseller switches requires a move away from efficient market pricing to inefficient unbundled, cost-based pricing. Unbundled, cost-based pricing would also create a disincentive for future investment. (6-10)
- The reseller switch proposal is technically flawed. Nonstandardized interfaces and unpredictable shifts in capacity utilization will lead to more blocked calls. (11-12)

**ALLNET COMMUNICATIONS SERVICES, INC.**

**Interest:** Interexchange carrier

**Equal access:**

**Cellular equal access:**

- The FCC should implement a general equal access requirement for CMRS services. CMRS services that do not have an implicit or explicit long distance transport element do not call for equal access. (2)
- The wireless voice industry has been characterized by discriminatory pricing that could only exist in the presence of significant market power. (2)
- By denying customers equal access, CMRS facilities-based carriers can gain monopoly profits from end users and these profits can be built into toll rates. (3)
- Disputes the significant costs of equal access claimed by some commenters. (4)
- The FCC cannot rely on speculation that there will be more competition in the cellular market in the future. (7-8)
- Equal access will stimulate calling volumes. (8-9)
- Disputes that 10XXX dialing should be sufficient for providing equal access. (9-10)
- Equal access costs should be paid by all toll carriers who provide toll services from the cellular provider's system. (10)
- Neither balloting nor allocation is required. (10)

**CMRS resale obligations:**

- Resale restrictions should be prohibited because resale combats discrimination among users. Contrary to some parties' arguments, allowing resale will reduce the risk of the party who has already built the capacity. (10-11)

**AMARILLO CELLTELCO**

**Interest:** Non-wireline cellular licensee.

**Equal access:**

**Cellular equal access:**

- Opposes the imposition of equal access obligations on all non-BOC-affiliated cellular carriers; or, in the alternative, on cellular carriers with fewer than 100,000 subscriber units. (1)
- Equal access obligations are inapplicable to carriers not party to the MFJ as non-BOC-affiliated carriers do not possess bottleneck facilities and competition among wireless services is flourishing. (3-4)
- Equal access obligations could prove financially disastrous for small and mid-sized cellular providers. Implementation costs will result in higher costs for consumers and could force some smaller carriers, lacking the financial resources and customer base of larger carriers, out of the market. Higher costs will make it difficult for CellTelCo to continue to operate as a stand-alone cellular carrier. (4-6)
- Smaller cellular providers will no longer be able to purchase long distance services at bulk rates and pass on those savings to their subscribers. (6)



**AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

**Interest:** Trade association representing commercial wireless service providers including the majority of private carriers that have been reclassified as CMRS.

**Equal access:**

**Equal access for other CMRS providers:**

- Opposes extending equal access requirements to CMRS providers. There is no evidence that the substantial costs of equal access are outweighed by any concomitant benefit to the public. Competition will more likely be hindered than promoted by imposition of equal access. (2-3)
- The parties that support equal access for CMRS providers do so primarily on the basis that it is demanded by regulatory parity, rather than because it enhances competition. (3-4)
- If equal access is adopted, those obligations should be narrowly tailored to promote vigorous competition and it must be phased in to permit the necessary equipment modifications. (4)
- Traditional SMR operators should be exempt from equal access obligations because the additional cost and complexity would virtually ensure that SMR providers would drop interconnection from their offerings, thereby reducing alternative sources for that service. (4)
- Any equal access obligations imposed on ESMR operators should be delayed until the end of the transition period to expanded Feature Group D Carrier Identification Codes. (5)

**LEC/CMRS interconnection:**

- The current system of good faith negotiations should be continued, but executed contracts should be filed with the FCC for oversight purposes. This system should be used until a problem arises. (5-6)
- Mutual compensation provisions for interconnection arrangements between LECs and CMRS providers should be required. (6)

**CMRS/CMRS interconnection:**

- Adoption of CMRS to CMRS interconnection requirements would be premature. (6-7)

## AMERICAN PERSONAL COMMUNICATIONS

**Interest:** Future PCS provider

**Equal access:**

**Equal access for other CMRS providers:**

- To be competitive with cellular, PCS providers will voluntarily offer their subscribers the capability of equal access. (2)
- Market forces will drive nearly all CMRS providers to offer equal access; there is no need for the FCC to intervene and dictate how CMRS providers should implement equal access. (2)
- It serves the public interest for CMRS providers to be able to negotiate favorable rates with an interexchange carrier and offer those advantages to their subscribers. (2)
- For efficiency in handling traffic and subscribers' costs, PCS providers should not be prohibited from packaging a local-service offering with a long-distance offering. (2)
- Imposition of equal access will not cause any true consumer benefits; the opposite is likely to occur. (2)
- If equal access is imposed, the FCC should allow for flexible implementation for newly licensed PCS providers. (3)
- The FCC should rule on this issue as quickly as possible so that if equal access is imposed, PCS providers can begin planning and constructing their systems. (4)
- Local calling areas should be defined by the MTA or BTA boundaries of the particular PCS license. Local calling areas should be congruent with service-area boundaries. (4)
- LATAs should not be overlaid onto the FCC's wireless plans. (4)

**CMRS/CMRS interconnection:**

- With respect to PCS-cellular interconnection arrangements, cellular providers should be required to interconnect HLR and VLR databases and to provide such interconnection within one year of the PCS providers' requests. (5)

**AMERITECH CORPORATION**

**Interest:** Regional Bell Operating Company

**Equal access:**

**Cellular and other CMRS providers:**

- No commenter has made a persuasive case for deviating from a principle of regulatory parity. (1)
- Like regulatory obligations should be imposed on carriers/services that directly compete because it will ensure that no competitor has an advantage. (2)
- No CMRS application involves market power. No CMRS constitutes a bottleneck service. (1-2)
- Equal access obligations should not be imposed initially on any CMRS provider. (2)
- Cellular call screening or customer profile data should not be made available to IXC's. The conditions that prompted the LIDB requirement do not exist with CMRS. (4)

**LEC/CMRS interconnection:**

- Interconnection arrangements should be permitted to continue under the current negotiated arrangement. (5)

**CMRS/CMRS interconnection:**

- Interconnection should not be mandated; it should be left to the marketplace. (5)

**CMRS resale obligations:**

- Any resale requirements should apply equally to all CMRS providers that are potential competitors. (6)
- Encourages the FCC to permit any CMRS provider to restrict resale of its services by any facilities-based CMRS provider after 5 years after the issuance of the license to the second provider. (6)

- Supports BellSouth's request for a clarification that the FCC's separate cellular subsidiary requirement be interpreted as not prohibiting resale of cellular service by BOC LECs. (6-7)

**AT&T CORPORATION**

**Interest:** Long distance carrier

**Equal access:**

**Cellular and other CMRS providers:**

- The consumer benefits of equal access outweigh the costs to CMRS providers. (17)
- Rejects arguments that CMRS is unnecessary because customers already have a range of alternatives; that it would be too expensive or technically infeasible; and that it would benefit the larger IXC's at the expense of end users or smaller carriers (18-19)
- All CMRS providers should be subject to equal access requirements. Congress rejected imposing different regulatory requirements on existing providers and new market entrants. (22-24)
- Requirements that minimize customer confusion and maximize competition should be implemented. (24)

**LEC/CMRS interconnection:**

- Supports the current system of negotiated interconnection agreements in lieu of a tariffing requirement. (16)

**CMRS/CMRS interconnection:**

- The Communications Act does not require CMRS to CMRS interconnection. (3)
- Imposition of interconnection obligations on CMRS providers is unnecessary and would impede development of CMRS. Equal access and CMRS interconnection are distinct and require independent analysis. (5)
- The distinction between dominant/non-dominant should be rejected as the basis for CMRS regulation. (7-8)
- Cellular carriers should not be forced to unbundle their networks or provide interconnection for resellers' switches. (9-10)

**CMRS resale obligations:**

- Resale obligations should be uniformly imposed on all CMRS providers. (15)



## **BELL ATLANTIC COMPANIES**

**Interest:** Regional Bell Operating Company

**Equal access:**

**Cellular and other CMRS providers:**

- Bell Atlantic prefers that no equal access obligations be imposed. However, all CMRS providers should be required to offer IXCs equal access as long as equal access is imposed on BOC-affiliated cellular carriers. (3-4)
- Regulatory symmetry is important because of the significant distortions that inconsistent regulation has on the CMRS marketplace. (5)
- Equal access should not be extended to only cellular carriers, even if the FCC finds that cellular carriers have market power. (7)
- The costs of converting the remaining CMRS providers to equal access do not justify leaving the current system in place. (8-9)

**LEC/CMRS interconnection:**

- The costs of tariffing LEC-CMRS interconnection exceed any possible benefits. Negotiated agreements provide flexibility and sufficient protection for CMRS providers. (11)
- Carriers should not be required to file interconnection agreements and most favored nation clauses are unnecessary. (12-13)

**CMRS/CMRS interconnection:**

- There is no reason to consider rules for CMRS-CMRS interconnection now. CMRS providers do not have monopoly control, LEC interconnection is already available and CMRS providers have reached voluntary interconnection arrangements. (13)

**CMRS resale obligations:**

- Regulatory parity requires applying resale obligations to CMRS providers. (15)

- Supports request for clarification that the separate subsidiary requirement for BOC-affiliated cellular carriers does not apply to the resale of cellular service. (15-16)

**BELLSOUTH CORPORATION**

**Interest:** Regional Bell Operating Company.

**Equal access:**

**Equal access for other CMRS providers:**

- Equal access requirements should be uniformly applied to all competing two-way CMRS providers, including enhanced SMR providers. (7-8)
- The use of dial-around arrangements, such as 10XXX dialing, is not an acceptable alternative to 1+ dialing. (8-9)

**LEC/CMRS interconnection:**

- Most parties agree that the Commission should retain its current system of negotiated arrangements, and should not require tariffs. (3-4)

**CMRS resale:**

- Most parties support extending application of resale policies to all CMRS providers, or, at a minimum, to all broadband CMRS providers. (4)
- American Personal Communications' proposal, which carves out an exception for PCS resale, clearly violates regulatory parity. (4-5)
- The Commission should clarify that Bell Company LECs are permitted to resell cellular service. (5-6)

**CELLULAR COMMUNICATIONS OF PUERTO RICO, INC.**

**Interest:** CMRS provider

**Equal access:**

**Cellular equal access:**

- Equal access requirements should not be imposed on nonwireline cellular carriers of CCPR's size or smaller. (2)
- Long distance rates would increase for CCPR's customers if equal access is mandated. (3)
- Equal access would increase the costs of long distance calls for CCPR, but not its competitor. (3)
  - CCPR would need to add additional trunk lines to connect its MTSO with IXC POPs that its competitor would not need to add. (3)
- Equal access will not introduce significantly greater consumer choice; the market is already competitive. (3)

**LEC/CMRS interconnection:**

- Good faith contract negotiation for LEC/CMRS interconnection should not be replaced with a tariff requirement. (4)
- The Puerto Rico Telephone Company ("PRTC") would be in the position of reviewing its own tariff filings, with an inherent disposition toward favoring itself, and CCPR's only avenue for complaint would be to its principal competitor, PRTC. (5)

**CELLULAR SERVICE, INC. AND COMTECH, INC.**

**Interest:** Cellular resellers in California.

**CMRS/CMRS interconnection:**

- Cellular resellers should be permitted to interconnect with facilities-based carriers. (1-2)
- The Commission should require cellular carriers to interconnect because they are dominant carriers and have no incentive to permit resellers to interconnect. (2)
- In order to impose interconnection requirements, it is not necessary to find that a connecting carrier exercises bottleneck control. (3-4)
- Cellular carriers should receive compensation for providing interconnection, but should not be compensated for services that the reseller does not use. (4)
- Cellular carriers are inconsistent in arguing both for the benefits of deregulation and for regulatory restraints on the resellers' right to compete. (4)

## **CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

**Interest:** Trade association

**Equal access:**

### **Cellular and other CMRS providers:**

- Equal access requirements should not be imposed on any CMRS providers in light of competitive nature of the CMRS marketplace. (3-4)
- The exercise of substantial market power is absent from the CMRS marketplace, and consequently, equal access cannot be economically justified. (6-8)
- Equal access should not be implemented for the sake of regulatory parity. It would be bad public policy to perpetuate such undesirable restrictions on competition. (8-9)

### **LEC/CMRS interconnection:**

- The FCC should not require LECs to tariff interconnection services provided to CMRS providers. Extension of the current policy of good faith negotiations to all CMRS providers will adequately protect CMRS providers from discriminatory LEC practices, while also ensuring sufficient flexibility to establish mutually beneficial interconnection arrangements. (9-10)
- "Most favored nation" clauses should not be included in contracts because they are anticompetitive and increase disputes in the negotiation process. (10-11)

### **CMRS/CMRS interconnection:**

- In light of the competitive nature of the CMRS market, the FCC should not impose mandatory CMRS interconnection obligations. Interconnection is not required by the Communications Act and may diminish consumer choice while substantially raising costs. (12-14)

**CMRS resale obligations:**

- In order to achieve regulatory parity, resale obligations should be imposed on CMRS providers to the same extent that they are imposed on cellular licensees. (16)

## **CENTURY CELLUNET**

**Interest:** Cellular subsidiary of Century Telephone Enterprises, Inc.

### **Equal access:**

#### **Cellular equal access:**

- There is overwhelming opposition to extending equal access requirements to CMRS providers. Market conditions do not justify the additional obligations, and equal access would increase initial and ongoing costs and harm consumers. (5)
- Equal access proponents offer no support for their arguments that equal access will benefit consumers, that it can be implemented at minimal cost and that it is required for principles of regulatory parity. (9)

#### **LEC/CMRS interconnection:**

- A federal interconnection tariffing requirement is not necessary to prevent discrimination. Instead, the FCC can require LECs to file individual interconnection agreements and to make interconnection available under the same terms and conditions to all similarly situated CMRS providers. (15-16)
- The FCC should emphasize that mutual compensation is a required element of LEC/CMRS interconnection. (16-17)

#### **CMRS/CMRS interconnection:**

- The FCC should not implement CMRS/CMRS interconnection because the CMRS market is fully competitive and it would be premature to impose interconnection requirements at this stage in the development of the CMRS industry.



## COMCAST CORPORATION

**Interest:** Cellular service provider.

**Equal access:**

### Cellular equal access:

- MFJ-like equal access obligations are not warranted for non-BOC affiliated cellular providers who do not control the local exchange network. (3-7)
- Imposing equal access requirements on these providers will prevent them from offering combined services to the public on a through-rate basis, which promotes competition. (7-11)
- If the FCC mandates equal access, non-BOC affiliated cellular and CMRS providers should be permitted to:
  - recover from IXCs both the direct cost of providing equal access and interconnection, as well as a portion of the attributable network joint and common costs; (11-13)
  - subscribe current customers to a pre-contracted IXC, and subsequently offer equal access to all new customers from the date equal access is ordered. (18-20)
- If the FCC requires CMRS equal access, then all non-dominant CMRS providers, including cellular resellers, should be subject to similar regulation. (21-22)

### Implementation:

- Opposes the use of LATAs as the relevant equal access service area because LATAs do not suit cellular and CMRS markets. (14-18)
- Opposes a "flash cut" to equal access as prohibitively expensive and technologically difficult. (22-23)